

902 KAR 20:036. Operation and services; personal care homes.

RELATES TO: KRS 216B.010-216B.130, 216B.990

STATUTORY AUTHORITY: KRS 216B.042, 216B.105, 314.011(8), 314.042(8), 320.210(2), 1998 Ky. Acts ch. 228, sec. 2, ch. 424, sec. 1

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 and 216B.105 require that the Cabinet for Health Services regulate health facilities and health services. This administrative regulation establishes licensure requirements for the operation of and the services to be provided by personal care homes.

Section 1. Definitions. (1) "Activities of daily living" means activities of self-help (example: being able to feed, bathe and/or dress oneself), communication (example: being able to place phone calls, write letters and understanding instructions), and socialization (example: being able to shop, being considerate of others, working with others and participating in activities).

(2) "Activities services" means social and recreation opportunities to stimulate physical and mental abilities, encourage and develop a sense of usefulness and self respect and encourage participation in a variety of activities.

(3) "Administrator" means a person who:

(a) Has sufficient education to: maintain adequate records; submit reports requested by the board; and interpret any written material related to all phases of facility operation and resident's care. The administrator shall: be literate; be a high school graduate or have passed the General Education Development Test; be twenty-one (21) years of age or older; or

(b) Is licensed as a nursing home administrator as provided by KRS 216A.080.

(4) "Ambulatory" means able to walk without assistance.

(5) "License" means an authorization issued by the Certificate of Need and Licensure Board for the purpose of operating a personal care home and offering personal care services.

(6) "Mobile nonambulatory" means unable to walk without assistance, but able to move from place to place, and self exit the building, with the use of a device such as a walker, crutches, or a wheelchair and capable of independent bed-to-chair transfer or bed-to-chair transfer with minimal assistance.

(7) "Nonambulatory" means unable to walk without assistance.

(8) "Nonmobile" means unable to move from place to place.

(9) "Personal care" means services to help residents to achieve and maintain good personal hygiene including but not limited to: assistance with bathing, shaving, cleaning and trimming of fingernails and toenails, cleaning of the mouth and teeth, washing, grooming and cutting of hair.

(10) "Qualified dietician or nutritionist" means a person who:

(a) Has a bachelor of science degree in foods and nutrition, food service management, institutional management or related services and has successfully completed a dietetic internship or coordinated undergraduate program accredited by the American Dietetic Association (ADA) and is a member of the ADA or is registered as a dietician by ADA; or

(b) Has a masters degree in nutrition and is a member of ADA or is eligible for registration by ADA; or

(c) Has a bachelor of science degree in home economics and three (3) years of work experience with a registered dietician.

(11) "Residential care" means services which include but are not limited to: room accommodations, housekeeping and maintenance services, dietary services and laundering of resident's clothing and bed linens.

(12) "Restraint" means any pharmaceutical agent or physical or mechanical device used to re-

strict the movement of a patient or the movement of a portion of a patient's body.

Section 2. Scope of Operations and Services. A personal care home is an establishment with permanent facilities including resident beds. Services provided include continuous supervision of residents, basic health and health-related services, personal care services, residential care services and social and recreational activities. A resident in a personal care home shall be sixteen (16) years of age or older and be ambulatory or mobile nonambulatory, and able to manage most of the activities of daily living. Persons who are nonambulatory or nonmobile shall not be eligible for residence in a personal care home.

Section 3. Administration and Operation. (1) Licensee.

(a) The licensee shall be legally responsible for the operation of the personal care home and for compliance with federal, state and local laws and regulations pertaining to the operation of the home.

(b) The licensee shall establish policies for the administration and operation of the service.

(2) Administrator. All personal care facilities shall have an administrator who shall be responsible for the operation of the facility and shall delegate such responsibility in his or her absence.

(3) Admission.

(a) Personal care homes shall admit only persons who are sixteen (16) years of age or older and who are ambulatory or mobile nonambulatory and whose care needs do not exceed the capability of the home. Persons who are nonambulatory or nonmobile shall not be eligible for admission to a personal care home.

(b) A personal care home shall not care or be responsible for the care of more residents than the capacity indicated on the license, regardless of where housed.

(c) Upon admission the resident and a responsible member of his family or committee shall be informed in writing of the established policies of the home to include but not be limited to fees, reimbursement, visitation rights during serious illness, visiting hours, type of diets offered and services rendered.

(d) Upon admission each resident shall have a complete medical evaluation including medical history, physical examination and diagnosis (may be copy of discharge summary or health and physical report from physician, hospital or other health care facility if done within fourteen (14) days prior to admission).

(4) Patient rights. Patient rights shall be provided for pursuant to KRS 216.510 to 216.525.

(5) Adult and child protection. Personal care homes shall have written policies which assure the reporting of cases of abuse, neglect or exploitation of adults and children pursuant to KRS Chapters 209 and 620.

(6) Transfer and discharge. Personal care homes shall comply with the requirements of 900 KAR 2:050 when transferring or discharging residents.

(a) Personal care homes shall have written transfer procedures and agreements for the transfer of residents to other health care facilities which can provide a level of inpatient care not provided by the personal care home. Any facility which does not have a transfer agreement in effect but has attempted in good faith to enter into such an agreement shall be considered to be in compliance with the licensure requirement. The transfer procedures and agreements shall specify the responsibilities each institution assumes in the transfer of patients and establish responsibility for notifying the other institution promptly of the impending transfer of a patient and arrange for appropriate and safe transportation.

(b) The administrator shall initiate transfer through the resident's physician or appropriate agencies when the resident's condition is not within the scope of services of a personal care home.

(c) In the event of transfer to another health care facility a current summary of the resident's medical record shall accompany the resident. When a transfer is to another level of care within the same facility a copy of the resident's record or current summary thereof shall accompany the resident.

(7) Tuberculosis Testing. All employees and residents shall be tested for tuberculosis in accordance with the provisions of 902 KAR 20:200, Tuberculosis testing in long term care facilities.

(8) Personnel.

(a) Operators and employees of personal care homes shall comply with 1998 Ky. Acts ch. 424, sec. 1.

(b) Current employee records shall be maintained and shall include a record of each employee's training and experience, evidence of current licensure, registration or certification where required by law, health records and evaluation of performance, along with employee's name, address and Social Security number.

(c) All employees shall be of an age in conformity with state laws.

(d) Any employee contracting an infectious disease shall not appear at work until the infectious disease can no longer be transmitted.

(e) All dietary employees shall wear hair nets.

(f) In-service training. All personal care home employees shall receive in-service training to correspond with the duties of their respective jobs. Documentation of in-service training shall be maintained in the employee's record and shall include: who gave the training, date and period of time training was given and a summary of what the training consisted of. In-service training shall include but not be limited to the following:

1. Policies of the facility in regard to the performance of their duties;
2. Services provided by the facility;
3. Recordkeeping procedures;
4. Procedures for the reporting of cases of adult and child abuse, neglect or exploitation pursuant to KRS Chapters 209 and 620;
5. Patient rights as provided for in KRS 216.510 to 216.525;
6. Methods of assisting patients to achieve maximum abilities in activities of daily living;
7. Procedures for the proper application of physical restraints;
8. Procedures for maintaining a clean, healthful and pleasant environment;
9. The aging process;
10. The emotional problems of illness;
11. Use of medication; and
12. Therapeutic diets.

(g) Staffing requirements.

1. The number of personnel required shall be based on: the number of patients; amount and kind of personal care, supervision, and program needed to meet the needs of the residents as determined by the definitions of care and services required in this administrative regulation.

2. If the staff to resident ratio does not meet the needs of the residents, the Division for Licensing and Regulation shall determine and inform the administrator in writing how many additional personnel are to be added and of what job classification and shall give the basis for this determination.

3. The administrator shall designate a person for each of the following areas who will be primarily responsible for the coordination and provisions of services (personnel may be required to perform combined duties):

- a. Recordkeeping;
- b. Basic health and health related services; and
- c. Activity services.

4. Each facility shall have a full-time person designated by the administrator, responsible for the

total food service operation of the facility and who shall be on duty a minimum of thirty-five (35) hours each week.

5. One (1) attendant shall be awake and on duty on each floor in the facility at all times.

(9) Medical records. The person in charge of medical records shall assure that a complete medical record shall be kept for each resident with all entries current, dated and signed. Entries should be made in ink, ballpoint, or typed. Each record shall include the following:

(a) Identification information, including:

1. Resident's name;
2. Social Security, Medicare and Medical Assistance identification number (if appropriate);
3. Marital status;
4. Birthdate;
5. Age;
6. Sex;
7. Home address;
8. Religion and personal clergyman, if any (with consent of resident);
9. Attending physician, dentist and podiatrist, if any; address and phone number for each one;
10. Next of kin or responsible person, address and telephone number;
11. Date of admission and discharge;
12. In the event of transfer, a copy of the summary of resident's records; and
13. Monthly recording of the resident's weight.

(b) If admitted from another facility a discharge summary or transfer summary.

(c) Admitting medical evaluation.

(d) Physician's report on annual medical evaluation of the resident.

(e) Physician progress notes indicating changes in resident's condition, at time of each visit by the physician and consultant.

(f) Orders for medication or therapeutic services.

(g) Nurses' or staff notes indicating changes in resident's condition as they occur.

(h) Reports of accidents or acute illnesses of any resident.

(i) Reports of social services, dental, laboratory, x-ray and special reports of consultants or therapists when the resident receives these services.

(j) Medication and treatment sheets including all medications, treatments and special procedures performed indicating date and time. Entries shall be initialed by the personnel rendering treatment or administering medication.

(k) Reports of the use of physical restraints, the procedures used, and the checks and releases of physical restraints.

(l) A record of resident's discharge destination.

(10) Retention of records. After death or discharge the completed medical record shall be placed in an inactive file and retained for five (5) years, or in case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

Section 4. Provision of Services. (1) Basic health and health related services. All personal care homes shall provide basic health and health related services including: continuous supervision and monitoring of the resident to assure that the resident's health care needs are being met, supervision of self administration of medications, storage and control of medications, when necessary, and making arrangements for obtaining therapeutic services ordered by the resident's physician which are not available in the facility. All personal care homes shall meet the following requirements relating to the provision of basic health and health related services:

(a) The person in charge of the facility shall be responsible for obtaining medical care by a li-

censed physician promptly in cases of accident or acute illness of any resident. Such instances shall be recorded in the resident's medical record.

(b) Medications or therapeutic services shall not be administered or provided to any resident except on the order of a licensed physician or other ordering personnel acting within the limits of their statutory scope of practice. Administration of all medications and provisions of therapeutic services shall be recorded in the resident's medical record.

(c) If orders are received by telephone, the order shall be recorded on the individual's medical record and signed by the physician or other ordering personnel acting within the limits of their statutory scope of practice within fourteen (14) days.

(d) A written report of any incident or accident involving a resident (including medication errors or drug reactions), visitor or staff shall be made and signed by the administrator, and any staff member who may have been witness to the incident. The report shall be filed in an incident file.

(e) Controlled substances. A home shall not keep any controlled substances or other habit forming drugs, hypodermic needles, or syringes except under the specific direction of a physician. Controlled substances shall be kept under double lock (i.e., in a locked box in a locked cabinet). There shall be a controlled substances bound record book with numbered pages, in which is recorded the name of the resident; the date, time, kind, dosage, and method of administration of all controlled substances; the name of the physician who prescribed the medications; and the name of the nurse who administered it, or staff who supervised the self-administration. In addition, there shall be a recorded and signed Schedule II controlled substances count daily, and Schedule III, IV and V controlled substances count once per week by those persons who have access to controlled substances. All controlled substances which are left over after the discharge or death of the resident shall be destroyed in accordance with 21 CFR 1307.21.

(f) All medicines shall be plainly labeled with the resident's name, the name of the drug, strength, name of pharmacy, prescription number, date, physician name, caution statements and directions for use except where accepted modified unit dose systems conforming to federal and state laws are used. All medicines kept by the home shall be kept in a locked place and the persons in charge shall be responsible for giving the medicines and keeping them under lock and key. Medications requiring refrigeration shall be kept in a separate locked box of adequate size in the refrigerator in the medication area. Drugs for external use shall be stored separately from those administered by mouth and injection. Provisions shall also be made for the locked separate storage of medications of deceased and discharged patients until such medication is surrendered or destroyed in accordance with existing federal and state laws and regulations.

(g) If a resident manifests persistent behavior that may require psychiatric treatment, the resident's physician shall be notified in order to evaluate and direct the resident's care. If the resident's condition does not improve enough for his continued stay in a personal care facility, the physician shall initiate transfer of the resident to an appropriate facility as soon as possible.

(h) Use of restraints.

1. No restraints shall be used except as permitted by KRS 216.515(6).
2. Restraints that require lock and key shall not be used.
3. Restraints shall be applied only by appropriately trained personnel.
4. Restraints shall not be used as a punishment, as discipline, as a convenience for the staff, or as a mechanism to produce regression.

(i) Each resident shall have an annual medical evaluation by a physician. The results of this evaluation shall be recorded in the resident's medical record.

(j) Communicable diseases. If a resident or prospective resident is suspected or known to have a communicable disease for which a reasonable probability of disease transmission exists in the personal care home, the administrator shall assure that a physician is contacted and that appropriate

measures are taken on behalf of the resident with the communicable disease and the other residents.

(2) Residential care services. A personal care home shall provide residential care services to all residents including: room accommodations, housekeeping and maintenance services, and dietary services. A personal care home shall meet the following requirements relating to the provisions of residential care services:

(a) Room accommodations.

1. Each resident shall be provided a bed equipped with substantial spring, a clean comfortable mattress, a mattress cover, two (2) sheets and a pillow, and such bed covering as is required to keep the residents comfortable. Rubber or other impervious sheets shall be placed over the mattress cover whenever necessary. Beds occupied by residents shall be placed so that no resident may experience discomfort because of proximity to radiators, heat outlets, or by exposure to drafts.

2. The home shall provide window coverings, bedside tables with reading lamps (if appropriate), comfortable chairs, chest or dressers with mirrors and a night light.

3. Residents shall not be housed in unapproved rooms or unapproved detached buildings.

4. Basement rooms shall not be used for sleeping rooms for residents.

5. Residents may have personal items and furniture when it is physically feasible.

(b) Housekeeping and maintenance services.

1. The home shall maintain a clean and safe facility free of unpleasant odors. Odors shall be eliminated at their source by prompt and thorough cleaning of commodes, urinals, bedpans and other obvious sources.

2. An adequate supply of clean linen should be on hand at all times. Soiled clothing and linens shall receive immediate attention and should not be allowed to accumulate. Clothing or bedding used by one (1) resident shall not be used by another until it has been laundered or dry cleaned.

3. Laundering of resident's normal personal clothing and bed linens. Resident's personal clothing and bed linens shall be laundered by the home as often as is necessary. Resident's personal clothing shall be laundered by the home unless the resident or the resident's family accepts this responsibility. Residents capable of laundering their own personal clothing and wishing to do so may, instead, be provided the facilities to do so. Resident's personal clothing laundered by the facility shall be marked to identify the resident-owner and returned to the correct resident.

4. Safety. The home shall take appropriate precautions to insure safety of residents, visitors and employees.

5. Maintenance. The premises shall be well kept and in good repair. Requirements shall include but not be limited to:

a. The facility shall insure that the grounds are well kept and the exterior of the building and including the sidewalk, steps, porches, ramps and fences are in good repair.

b. The interior of the building including walls, ceilings, floors, windows, window coverings, doors, plumbing and electrical fixtures shall be in good repair. Windows and doors shall be screened.

c. Garbage and trash shall be stored in areas separate from those used for the preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

d. A pest control program shall be in operation in the facility. Pest control services shall be provided by maintenance personnel of the facility or by contract with a pest control company. Care shall be taken to use the least toxic and least flammable effective insecticides and rodenticides. The compounds shall be stored under lock.

(c) Dietary services.

1. Dining area. A dining area shall be available for the residents.

2. Therapeutic diets. If the facility provides therapeutic diets, and the designated person respon-

sible for food services is not a qualified dietician or nutritionist, consultation by a qualified dietician or qualified nutritionist shall be provided.

3. Menu planning.

a. Menus shall be planned in writing and rotated to avoid repetition. Nutrition needs of residents shall be met in accordance with the current recommended dietary allowances of the Food and Nutrition Board of the National Research Council adjusted for age, sex and activity and in accordance with physician's orders.

b. Meals shall correspond with the posted menu. Menus shall be planned and posted one (1) week in advance. When changes in the menu are necessary, substitutions shall provide equal nutritive value and the changes shall be recorded on the menu and menus shall be kept on file for thirty (30) days.

4. Food preparation and storage.

a. There shall be at least a three (3) day supply of food to prepare well balanced palatable meals.

b. Food shall be prepared with consideration for any individual dietary requirement. Modified diets, nutrient concentrates and supplements shall be given only on the written orders of a physician.

c. At least three (3) meals per day shall be served with not more than a fifteen (15) hour span between the evening meal and breakfast. Between-meal snacks to include an evening snack before bedtime shall be offered to all residents. Adjustments shall be made when medically contraindicated.

d. Food shall be prepared by methods that conserve nutritive value, flavor, and appearance, and shall be attractively served at the proper temperatures and in a form to meet individual needs. A file of tested recipes, adjusted to appropriate yield, shall be maintained. Food shall be cut, chopped, or ground to meet individual needs. If a resident refuses food served, substitutes shall be offered.

e. All opened containers or leftover food items shall be covered and dated when refrigerated.

f. Ice water shall be readily available to the residents at all times.

5. Sanitation. Personal care homes shall comply with all applicable provisions of KRS 219.011 to KRS 219.081 and 902 KAR 45:005.

(3) Personal care services. All personal care homes shall provide services to assist residents to achieve and maintain good personal hygiene including the level of assistance necessary with:

(a) Washing and bathing of the body to maintain clean skin and freedom from offensive odors. In addition to assistance with washing and bathing, the facility shall provide soap, clean towels, and wash cloths for each resident. Toilet articles such as towels, brushes and combs shall not be used in common.

(b) Shaving.

(c) Cleaning and trimming of fingernails and toenails.

(d) Cleaning of the mouth and teeth to maintain good oral hygiene as well as care of the lips to prevent dryness and cracking. All residents shall be provided with tooth brushes, a dentifrice, and denture containers, when applicable.

(e) Washing, grooming, and cutting of hair.

(4) Activity services.

(a) A personal care home shall provide social and recreational activities to: stimulate physical and mental abilities to the fullest extent; encourage and develop a sense of usefulness and self respect; prevent, inhibit or correct the development of symptoms of physical and mental regression due to illness or old age, be of sufficient variety that they meet the needs of the various types of residents in the home.

(b) A personal care home shall meet the following requirements relating to the provision of activity services:

1. Staff. A person designated by the administrator shall be responsible for the activity program. (Volunteer groups may be enlisted to assist with carrying out the activities program.)

2. There shall be a planned activity period each day. The schedule shall be current and posted.
3. The program shall be planned for group and individual activities, both within and outside of the facility.
4. The person responsible for activities shall maintain a current list of residents on which precautions are noted regarding a resident's condition that might restrict or modify his participation in the program.
5. A living or recreation room and outdoor recreational space shall be provided for residents and their guests.
6. The facility shall provide supplies and equipment for the activities program.
7. Reading materials, radios, games and TV sets shall be provided for the residents. (8 Ky.R. 227; eff. 11-5-81; Am. 11 Ky.R. 819; eff. 12-11-84; 13 Ky.R. 351; eff. 9-4-86; 18 Ky.R. 815; eff. 10-16-91; 24 Ky.R. 190; eff. 8-20-97; 25 Ky.R. 1232; eff. 1-19-99.)